

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 10-20535

Honorable David M. Lawson

v.

BOBBY W. FERGUSON, MICHAEL
WOODHOUSE, CALVIN L. HALL,
FERGUSON ENTERPRISES, INC., XCEL
CONSTRUCTION SERVICES, INC., and
A & F ENVIRONMENTAL/JOHNSON
CONSTRUCTION SERVICES,

Defendants.

ORDER GRANTING MISTRIAL AND ADDRESSING OTHER MOTIONS

Trial commenced in this case on May 8, 2012. After taking the testimony of 65 witnesses and receiving 255 exhibits, and after the jury deliberated from June 15 through June 26, 2012, the Court determined that the jury could not reach unanimous decision on any count of the indictment as to any defendant. With the consent of the parties, the Court declared a mistrial in open court. Thereafter, upon interviewing the jury *in camera*, the Court learned that the votes on some counts as to some defendants favored conviction, the votes on other counts as to other defendants favored acquittal, and still other counts and defendants divided the jury nearly evenly. In addition, near the end of trial, the defendants filed a motion for a mistrial on other grounds, which is now moot due to the jury's inability to reach unanimous decision. Finally, under the requirements of the Speedy Trial Act, trial must commence within 70 days "from the date the action occasioning the retrial becomes final." 18 U.S.C. § 3161(e).

Accordingly, it is **ORDERED** that a mistrial is declared, the jury is discharged, and the case is continued on the trial docket.

It is further **ORDERED** that trial shall commence on **August 21, 2012 at 8:30 a.m.**

It is further **ORDERED** that motions to adjourn trial must be filed by **July 13, 2012.**

It is further **ORDERED** that the defendants' joint motion for a mistrial [dkt. #218] is **DENIED as moot.**

It is further **ORDERED** that the defendants' joint motion for judgment of acquittal [dkt. #212], and the midtrial motions for judgment of acquittal, are **DENIED** for the reasons stated on the record.

It is further **ORDERED** that the motion to dismiss by defendant Bobby W. Ferguson [dkt. #213] is **DENIED** for the reasons stated on the record.

It is further **ORDERED** that the defendants' joint motion *in limine* [dkt. #193] is **DENIED as moot.**

s/David M. Lawson

DAVID M. LAWSON
United States District Judge

Dated: July 3, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 3, 2012.

s/Deborah R. Tofil

DEBORAH R. TOFIL